

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ELLEN JANE KUTTEN, ET AL.,

Plaintiffs,

v.

BANK OF AMERICA, N.A., ET AL.

Defendants.

MISCELLANEOUS ACTION

Case No. 05-20

**DECLARATION OF MARY HACKETT IN SUPPORT OF NATIONS FUNDS TRUST'S
OPPOSITION TO THE MOTION TO COMPEL**

I, Mary Hackett, declare and state:

1. I am a partner with the law firm of Reed Smith LLP and serve as counsel to Bank of America, N.A., and the Bank of America Corporation (collectively "Bank"), in the case *Kutten v. Bank of America, N.A.*, Case No. 4:04CV00244, pending in the United States District Court for the Eastern District of Missouri ("Missouri Case"). As such, I have personal knowledge of the facts stated herein.

2. The Plaintiffs in the Missouri Case, Ellen Jane Kutten and Mary Ann Arnold (collectively "Plaintiffs") allege that they were the beneficiaries of certain trusts ("Trusts") for which the Bank served as trustee and challenge conduct concerning the investment of some of the trust assets in Nations Funds between 2000 and 2002. The statements for the Trusts reflect that the Trust assets were invested in only a small number of Nations Funds.

3. The Plaintiffs, have propounded 72 document requests and 15 interrogatories on the Bank in the Missouri case ("Missouri Discovery").

4. In response to the Missouri Discovery these requests, the Bank reviewed over 600,000 pages of documents and produced over 75,000 pages of documents to the Plaintiffs.

5. In response to the Plaintiffs' requests, the Bank has produced documents that the Bank's affiliates maintain on behalf of Nations in their capacities as its investment adviser, administrator and distributor.

6. The Plaintiffs filed a motion to compel the Bank to answer Interrogatories in the Missouri Case. Attachment 1 to this Declaration is a copy of the Plaintiffs' brief in support of the motion to compel. Attachment 2 to this Declaration is the Bank's Memorandum in Opposition to the Plaintiffs' Motion to Compel.

7. Magistrate Judge Adelman denied the Plaintiffs' motion to compel. Attachment 3 to this Declaration is a copy of Judge Adelman's order.

8. Attachment 4 to this Declaration is the Defendants' Responses and Objections to Plaintiffs' First Set of Interrogatories Directed to Defendants from the Missouri case.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 4, 2005


Mary Hackett